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**27 OCT 2006**

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In re Application of  
THASSU et al.  
Application No.: 10/540,453  
PCT No.: PCT/US03/38983  
Int. Filing Date: 09 December 2003  
Priority Date: 23 December 2002  
Attorney's Docket No.: CEL01 P-303  
For: ACID LABILE DRUG COMPOSITIONS

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DECISION ON  
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PETITION  
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UNDER 37 CFR 1.181  
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This decision is in response to applicant's 19 October 2006 "Petition to Withdraw Holding of Abandonment under 37 CFR 1.181" requesting acceptance of a copy of the declaration in lieu of the original declaration filed United States Patent and Trademark Office (USPTO) on 21 February 2006. No petition fee is required.

**BACKGROUND**

On 22 June 2005, applicant filed a Transmittal Letter to the United States Designated/Elected Office (DO/EO/US) Concerning a Filing Under 35 U.S.C. 371 (Form PTO 1390) along with, *inter alia*, the basic national fee.

On 20 December 2005, a Notification of Missing Requirements (Form PCT/DO/EO/905) was mailed to applicants indicating that an oath or declaration, in compliance with 37 CFR 1.497(a) & (b), was required.

On 14 September 2006, a Notification of Abandonment was mailed to applicant indicating that applicant had failed to respond to the Notification of Missing Requirements mailed on 20 December 2005 within the time period set therein.

On 19 October 2006, in response to the Notification of Abandonment, applicant filed the instant response with, *inter alia*, a copy of 21 February 2006 declaration, and a copy of an itemized USPTO date-stamped postcard indicating that these papers were filed on 21 February 2006.

**DISCUSSION**

The original declaration filed on 21 February 2006 is now located in the application file. A review of the finance records for 10/540,453 indicates that on 21 February 2006, the \$130

surcharge for filing the declaration after the thirty month period was paid.


A review of the declaration reveals that the declaration identifies the inventors, and states the citizenship, residency and mailing address of the inventors. Thus, the declaration is acceptable and the requirements of 37 CFR 1.497 are met.

### **CONCLUSION**

The petition under 37 CFR 1.181 is **DISMISSED AS MOOT**. The 14 September 2006 Notification of Abandonment is hereby **VACATED**.

The declaration originally submitted on 21 February 2006 is acceptable and meets the requirements of 37 CFR 1.497(a) & (b).

The application will be forwarded to the United States Designated/Elected Office for further processing. The 35 U.S.C. 371(c)(1), (c)(2) & (c)(4) date is **21 February 2006**.



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